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****Application for *Pro Hac Vice Admission***
To Be Submitted

*Attorneys for Defendants, Counter Claimants
and Third-Party Plaintiffs*

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CAPANA SWISS ADVISORS AG, a
Swiss corporation; AMERIMARK
AUTOMOTIVE AG, a Swiss
corporation,

Plaintiffs,

vs.

RYMARK, INC., a Utah corporation;
NICHOLAS THAYNE MARKOSIAN,
an individual; JOHN KIRKLAND, an
individual; and VICKY SMALL, an
individual,

**RESPONSE IN OPPOSITION TO
MOTION TO QUASH NON-
PARTY SUBPENA OR FOR
ENTRY OF PROTECTIVE
ORDER**

Case 2:25-mc-00005

Judge Anita B. Brody

[Originating Case in United States

<p style="text-align: center;">Defendants.</p>	<p style="text-align: center;">District Court for the District of Utah]</p> <p style="text-align: center;">Case No.: 2:23-cv-00467</p> <p style="text-align: center;">Judge Ted Stewart Magistrate Judge Cecilia M. Romero</p>
<p>RYMARK, INC., a Utah corporation; and NICHOLAS THAYNE MARKOSIAN, an individual,</p> <p style="text-align: center;">Counter Claimants,</p> <p>vs.</p> <p>CAPANA SWISS ADVISORS AG, a Swiss corporation, and Amerimark Automotive AG, a Swiss Corporation,</p> <p style="text-align: center;">Counter Defendants.</p>	
<p>RYMARK, INC., a Utah corporation; and NICHOLAS THAYNE MARKOSIAN, an individual,</p> <p style="text-align: center;">Third-Party Plaintiffs,</p> <p>vs.</p> <p>SHAEN BERNHARDT, an individual; ASHLEY MIRON LESHEM, an individual; DAVID HESTERMAN, an individual; NICOLAI COLSHORN, an individual; STEFAN KAMMERLANDER, an individual; ALEXANDER COENEN, an individual; MARTIN FASSER HEEG, an individual;</p>	

AMERIMARK GROUP AG, a Swiss
corporation; and PHILOMAXCAP AG,
a German corporation,

Third-Party Defendants.

Pursuant to Rule 45 of the Federal Rules of Civil Procedure, Defendants Rymark, Inc. and Nicolas Thayne Markosian (“Defendants” or “Rymark”) hereby submit this Opposition to Third-Party John Simkiss’s (“Mr. Simkiss”) Motion to Quash Non-Party Subpoena or For Entry of Protective Order (the “Motion”).

The Motion should be denied for the reasons outlined in Defendants’ Memorandum in Opposition to Third-Party John Simkiss’s Motion to Quash Non-Party Subpoena or For Entry of Protective Order, which this Opposition hereby incorporates by reference in its entirety.

Respectfully submitted,

**PION, NERONE, GIRMAN
& SMITH, P.C.**

Dated: February 4, 2025

By: /s/ Bradley N. Sprout
Bradley N. Sprout, Esquire
Attorney I.D. 203182

**KUNZLER BEAN
& ADAMSON, PC**

/s/ Robert P. Harrington

Robert P. Harrington, Esquire

Chad S. Pehrson, Esquire

Stephen Richards, Esquire

Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of February 2025, I filed the foregoing **MEMORANDUM IN OPPOSITION TO MOTION TO QUASH NON-PARTY SUBPENA OR FOR ENTRY OF PROTECTIVE ORDER** via the Court's Cm/ECF system, which provided notice of such filing to all counsel of records.

**PION, NERONE, GIRMAN
& SMITH, P.C.**

By: /s/ *Bradley N. Sprout*
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Attorney I.D. 203182